

Office of the Secretary of Labor

§ 4.10

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit;

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(r) *Disputes concerning labor standards.* Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 4, 6, and 8. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(The information collection, recordkeeping, and reporting requirements contained in this section have been approved by the Office of Management and Budget under the following numbers:

Paragraph	OMB control number
(b)(2) (i)–(iv)	1215–0150
(e)	1215–0150
(g)(1) (i)–(iv)	1215–0017
(g)(1) (v), (vi)	1215–0150
(l) (1), (2)	1215–0150
(q)(3)	1215–0017

[48 FR 49762, Oct. 27, 1983; 48 FR 50529, Nov. 2, 1983, as amended at 61 FR 68663, Dec. 30, 1996]

§ 4.7 [Reserved]

§ 4.8 Notice of awards.

Whenever an agency of the United States or the District of Columbia awards a contract subject to the Act which may be in excess of \$10,000 and such agency does not submit Standard Form 279, FPDS Individual Contract Action Report, or its equivalent, to the

Federal Procurement Data System, it shall furnish the Wage and Hour Division, ESA, an original and one copy of Standard Form 99, Notice of Award of Contract, unless it makes other arrangements with the Wage and Hour Division for notifying it of such contract awards. The form shall be completed as follows:

(a) Items 1 through 7 and 12 and 13: Self-explanatory;

(b) Item 8: Enter the notation “Service Contract Act;”

(c) Item 9: Leave blank;

(d) Item 10: (1) Enter the notation “Major Category,” and indicate beside this entry the general service area into which the contract falls (e.g., food services, grounds maintenance, computer services, installation or facility support services, custodial-janitorial service, garbage collection, insect and rodent control, laundry and dry-cleaning services, etc.);

(e) Item 11: Enter the dollar amount of the contract, or the estimated dollar value with the notation “estimated” (if the exact amount is not known). If neither the exact nor the estimated dollar value is known, enter “indefinite,” or “not to exceed \$___.” Supplies of Standard Form 99 are available in all GSA supply depots under stock number 7540–634–4049.

§ 4.9 [Reserved]

§ 4.10 Substantial variance proceedings under section 4(c) of the Act.

(a) *Statutory provision.* Under section 4(c) of the Act, and under corresponding wage determinations made as provided in section 2(a)(1) and (2) of the Act, contractors and subcontractors performing contracts subject to the Act generally are obliged to pay to service employees employed on the contract work wages and fringe benefits not less than those to which they would have been entitled under a collective bargaining agreement if they were employed on like work under a predecessor contract in the same locality. (See §§ 4.1b, 4.3, 4.6(d)(2).) Section 4(c) of the Act provides, however, that “such obligations shall not apply if the Secretary finds after a hearing in accordance with regulations adopted by the Secretary that such wages and